

Senate Bill No. 928

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 23, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Section 1635.5 of, and to add Sections 1625.2, 1635.7, and 1658.8 to, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

SB 928, Aanestad. Dentistry licensure.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation by the Dental Board of California of those engaged in the practice of dentistry. Existing law provides that a person practices dentistry if the person, among other things, manages or conducts as manager, proprietor, conductor, lessor, or otherwise, in any place where dental operations are performed.

This bill would exclude from the unlicensed practice of dentistry certain nonprofit entities that own or manage places where dental operations are performed if they comply with various requirements.

(2) Existing law requires a dentist who desires to have more than one place of practice to pay a fee to, and receive permission in writing from, the board prior to opening an additional place of practice. This requirement does not apply to a dentist who also practices in certain primary and specialty care clinics.

This bill would further exempt from this requirement a dentist who also practices in clinics operated by the federal government, a federally recognized Indian tribe, or a community clinic open for limited services no more than 20 hours per week. The bill would make corresponding changes.

(3) Existing law, the Dental Practice Act, authorizes the Dental Board of California to issue a license to a person who is currently licensed to practice dentistry in another state if the person satisfies other requirements, including proof that the applicant has been in clinical practice or a full-time faculty member for a minimum of 1000 hours per year for at least 5 years preceding his or her application.

This bill would instead require an out-of-state applicant to provide proof that he or she has either been in active clinical practice or a full-time faculty member in an accredited dental



education program and in active clinical practice, for a total of at least 5000 hours in 5 of the 7 years preceding his or her application.

(4) Existing law requires an applicant to provide proof that he or she has not been subject to discipline in any state in which he or she has practiced and to sign a release allowing disclosure of specified information. Existing law requires the board to determine whether the disciplinary action and information warrants refusal to issue a license.

This bill would instead require the board to determine whether the disciplinary action or information presents sufficient evidence of a violation of unprofessional conduct, as defined in the act, to warrant submission of additional information or the denial of the application for licensure. The bill would require an applicant to make certain acknowledgments under penalty of perjury with respect to his or her application, thereby creating a new crime and imposing a state-mandated local program. The bill would authorize the board to contract with a 3rd party to review applications, and would require a person licensed under the provisions of the bill to fulfill continuing education requirements established by the board.

(5) Existing law requires a licensed dentist to register his or her place of practice with the board. Existing law also authorizes a licensed dentist to operate one mobile dental clinic or unit registered as a dental office or facility.

This bill would authorize a dentist to operate a mobile dental unit provided by property and casualty insurance as a temporary substitute site for his or her registered place of practice if the registered place of practice is unusable due to loss or calamity and the insurer registers the mobile dental unit with the board.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1625.2 is added to the Business and Professions Code, to read:



1625.2. (a) For purposes of subdivision (e) of Section 1625, the ownership or management, by a tax-exempt nonprofit corporation supported and maintained in whole or in substantial part by donations, bequests, gifts, grants, government funds, or contributions, that may be in the form of money, goods, or services, of a place where dental operations are performed, shall not be construed to be the unlicensed practice of dentistry, as long as all of the following apply:

(1) The entity obtains the board's approval to offer dental services pursuant to regulations adopted by the board.

(2) The entity does nothing to interfere with, control, or otherwise direct the professional judgment of or provision of dental services by a licensee or dental assistant acting within his or her scope of practice as defined in this chapter.

(3) The licensees and dental assistants of the entity providing services are in compliance with all applicable provisions of this chapter.

(4) The entity is otherwise in compliance with this chapter and all other applicable provisions of state and federal law.

(b) This section does not apply to any of the following entities:

(1) A primary care clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code.

(2) A primary care clinic that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and Safety Code.

(3) A clinic owned or operated by a public hospital or health system.

(4) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

SEC. 2. Section 1635.5 of the Business and Professions Code is amended to read:

1635.5. (a) Notwithstanding Section 1634, the board may grant a license to practice dentistry to an applicant who has not taken an examination before the board, if the applicant submits all of the following to the board:

(1) A completed application form and all fees required by the board.

(2) Proof of a current license issued by another state to practice dentistry that is not revoked or suspended or otherwise restricted.



(3) Proof that the applicant has either been in active clinical practice or has been a full-time faculty member in an accredited dental education program and in active clinical practice for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if documentation of any of the following is submitted:

(A) The applicant may receive credit for two of the five years of clinical practice by demonstrating completion of a residency training program accredited by the American Dental Association Commission on Dental Accreditation, including, but not limited to, a general practice residency, an advanced education in general dentistry program, or a training program in a specialty recognized by the American Dental Association.

(B) If an applicant provides proof of at least two years of clinical practice or receives two years of credit as defined in subparagraph (A), he or she may commit to completing the remainder of the five-year requirement by filing with the board a copy of a pending contract to practice dentistry full time in a primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code or in a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, or in a clinic owned or operated by a public hospital or health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code. The board may periodically request verification of compliance with these requirements, and may revoke the license upon a finding that the employment requirement, or any other requirement of this subparagraph, has not been met. The board may, by regulation, define "full time" for the purposes of this paragraph.

(C) If an applicant provides proof of at least two years of clinical practice or receives two years of credit as defined in subparagraph (A), he or she may commit to completing the remainder of the five-year requirement by filing with the board a copy of a pending contract to teach or practice dentistry full time in an accredited dental education program as approved by the Dental Board of California. The board may periodically request verification of compliance with these requirements, and may



revoke the license upon a finding that the employment requirement, or any other requirement of this subparagraph, has not been met.

(4) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed to practice dentistry. If the applicant has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of Article 4 (commencing with Section 1670) to warrant the submission of additional information from the applicant or the denial of the application for licensure.

(5) A signed release allowing the disclosure of information from the National Practitioner Data Bank and the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of Article 4 (commencing with Section 1670) to warrant the submission of additional information from the applicant or the denial of the application for licensure.

(6) Proof that the applicant has not failed the examination for licensure to practice dentistry under this chapter within five years prior to the date of his or her application for a license under this section.

(7) An acknowledgement by the applicant executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the applicant to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the applicant has not been convicted of an offense involving conduct that would violate Section 810.

(8) Documentation of 50 units of continuing education completed within two years of the date of his or her application under this section. The continuing education shall include the mandatory coursework prescribed by the board pursuant to subdivision (b) of Section 1645.

(9) Any other information as specified by the board to the extent it is required of applicants for licensure by examination under this article.



(b) The board shall provide in the application packet to each out-of-state dentist pursuant to this section the following information:

(1) The location of dental manpower shortage areas that exist in the state.

(2) Those not-for-profit clinics and public hospitals seeking to contract with licensees for dental services.

(c) (1) The board shall review the impact of this section on the availability of dentists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2005. The report shall include a separate section providing data specific to those dentists who intend to fulfill the alternative clinical practice requirements of subparagraph (B) of paragraph (3) of subdivision (a). The report shall include, but not be limited to, all of the following:

(A) The total number of applicants from other states who have sought licensure.

(B) The number of dentists from other states licensed pursuant to this section, as well as the number of licenses not granted and the reasons why each license was not granted.

(C) The location of the practice of dentists licensed pursuant to this section.

(D) The number of dentists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing dentists or no dentists at all.

(E) The length of time dentists licensed pursuant to this section maintained their practice in the reported location. This information shall be reported separately for dentists described in subparagraphs (C) and (D).

(2) In identifying a dentist's location of practice, the board shall use Medical Service Study Areas or other appropriate geographic descriptions for regions of the state.

(3) If appropriate, the board may report the information required by paragraph (1) separately for primary care dentists and specialists.

(d) The board is authorized to contract with a third party or parties to review applications filed under this section and to advise the board as to whether the applications are complete. The contracting party, its agents, and its employees shall agree to be bound by all provisions of law applicable to the board, its



members, and staff, governing custody and confidentiality of materials submitted by applicants for licensure.

SEC. 3. Section 1635.7 is added to the Business and Professions Code, to read:

1635.7. Any person licensed pursuant to Section 1635.5 shall be required to fulfill continuing education requirements established by the board pursuant to Section 1645 before his or her license is eligible to be renewed in accordance with this chapter.

SEC. 4. Section 1658.8 is added to the Business and Professions Code, to read:

1658.8. Notwithstanding any other provision of this chapter, a licensed dentist may operate a mobile dental unit provided by his or her property and casualty insurer as a temporary substitute site for the practice registered by him or her pursuant to Section 1650, if both of the following requirements are met:

(a) The licensee's registered place of practice has been rendered and remains unusable due to loss or calamity.

(b) The licensee's insurer registers the unit with the board in compliance with Section 1657.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

